3-10-89

# ALBION BASIN, UTAH

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HEARING SUBMITTAL TO DIVISION OF WATER RIGHTS

Right No.: 428548 + 428545

Date: 7/13/2011

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## **ATTACHMENTS**

- Map of Utah with Albion Basin marked
- Map of Albion Basin with mining claims
- Aerial Photo of Albion Basin with mining claims
- General and Specific Area Maps
- Extract from Salt Lake City Watershed Management Plan
- Extract from Salt Lake County Wasatch Canyons Master Plan
- Extract from Wasatch-Cache Nationa Forest Management Plan
- March 8, 1989 Letter from Forest Service Supervisor Bosworth to Salt Lake City Mayor DePaulis
- February 10, 1988 Little Cottonwood Water District Letter
- March 15, 1988 Little Cottonwood Water District Letter
- March 14, 1988 Salt Lake City/County Health Department Letter
- March 11, 1988 Salt Lake City Department of Public Works letter to Alta Mayor Levitt
- Alta Ski Lifts area maps
- Proposed Schedule of Acquisition of Properties in Albion Basin, Alta, Utah, Town of Alta, February 1989

# PROPOSAL FOR CONSERVATION FUND PARTICIPATION IN PRIVATE LAND ACQUISITIONS WITHIN ALBION BASIN, UTAH

March 10, 1989

Salt Lake City is proposing to the Conservation Fund their involvement in the public acquisition of certain private lands in the Albion Basin of Utah's Wasatch Mountains for purposes of watershed protection, public access and recreation, protection of scenic values, and their addition to surrounding U.S. Forest lands managed by the Wasatch-Cache National Forest.

#### SUMMARY

Private lands within the upper portions of Albion Basin were converted to private ownership through the mine claim and patent system under the Federal Mining Laws. Many of the former mining claims in the area have been acquired by the U.S. Forest Service through purchase, donation, or exchange. Six blocks of private lands remain within the Albion Basin, surrounded by U.S. Forest Service lands.

During the 1950's and 60's, prior to area zoning, three of these blocks were subdivided into a total of 81 lots, most under an acre in size, and sold for seasonal, residential summer cabins and homes. Dwellings have been built on 22 of the properties. The Forest Service has acquired five of the vacant lots, 4.639 acres, and Salt Lake County has acquired one lot. Fifty-five lots, 27.36 acres, remain vacant. Of the three unsubdivided blocks of private land, one block of 25.6 acres adjacent to an existing subdivision may have some future development potential.

It is in the interest of watershed protection, water quality protection, and recreational and scenic attributes of the area that further residential development and construction on any of these lands be stopped and the lands publicly acquired for future protection and management appropriate to their location. The subdivisions surround a U.S. Forest Service public campground, are at the headwaters of an important culinary water supply, Little Cottonwood Creek, and are within a popular U.S. Forest recreation area.

Priorities for acquisitions within Albion Basin need to be further explored. Some local entities would like to see acquisition of all private lands within the Basin including those with dwellings. The first priority, though, is clearly to acquire vacant lots upon which dwellings could be constructed. Salt Lake City, the Town of Alta, and the Wasatch-Cache National Forest are all supportive of public acquisitions in Albion Basin.

Vacant lots and the 25.6 acre unsubdivided parcel have a total assessed value of about \$850,000. Lots with dwellings have a total assessed value of \$1.7 million. Selling prices and assumed owner value of the properties far exceed the assessed values. A 3 acre undeveloped parcel was appraised in the early 1980's for \$101,000. Eleven vacant lots totaling 2.35 acres were re-purchased in 1981 by Alta Lift Company at \$20,000 each, \$220,000. Buyer/seller negotiations may result in more realistic figures.

We believe the Conservation Fund's criteria for acquisition participation can be met in Albion Basin. The Forest Service is willing to accept the lands in question. Although individual lots would not meet the Conservation Fund's threshold for participation, packaging of lot sales and/or purchase of larger parcels would. There are willing sellers involved and more willing sellers may be identified if they were made aware of opportunities for sale and of existing limitations on the potential for building permits within the Basin.

This package contains maps showing the location of the Basin within Utah and the Wasatch-Cache National Forest, existing encumbrances within Forest Service lands in Albion Basin and previous Forest Service acquisitions of patented mining claims, locations and arrangements of subdivisions and lots, and the Alta Ski Lift Company's trail map. Policy statements on watershed and sensitive private land acquisitions are included from Salt Lake City, Salt Lake County, Salt Lake City-County Health Department, and the U.S. Forest Service along with letters concerning water supply availability for the private lands. An aerial photo of the Basin and photographs taken within the Basin are provided. Also included is a document prepared by the Town of Alta in February of this year proposing priorities for private land acquisitions in Albion Basin, listing Salt Lake County assessed valuations for the subject properties, and providing addresses for the property owners.

Additional information will gladly be provided along with full cooperation in pursuing this endeavor.

#### ALBION BASIN AREA DESCRIPTION

Albion Basin is located at the head of Little Cottonwood Canyon within the boundaries of the Town of Alta and the Wasatch-Cache National Forest in Salt Lake County, Utah (maps on tab \_\_).

The high canyon basin, glacially carved from the Wasatch Mountains, is at an elevation of about 9,400 feet. It is bounded on three sides by high peaks and cirques ranging to an altitude of over 11,000 feet. To the north, the terrain drops out of Upper Albion Basin to the floor of Little Cottonwood Canyon and Alta's original townsite.

The Basin has upper montane forests of spruce and fir, open meadow areas with a proliferation of alpine flowers in the summer, and small streams. The streams, originating from snowmelt and Cecret Lake, converge to form the headwaters of Little Cottonwood Creek. The Basin is underlain with deep bedrock. There is little topsoil and within the Basin itself, there are few springs. Annual precipitation within the Basin is in the neighborhood of 30 inches per year, mostly in the form of snow from November through April with total snowfall of up to 500 inches. Numerous wildlife species are found, but the area is particularly a high value deer and elk summer range.

The Upper Basin proper, where the private lands in question are located, is about one section in area and is accessed from a gravel road connecting to State Highway 210 in the summer months and by over-the-snow vehicles and ski lifts during the winter.

### PUBLIC/PRIVATE USES

Within only a dozen miles of the Salt Lake Valley's metropolitan area and within the ski area boundaries of a popular destination and local ski resort, Albion Basin has high levels of both summer and winter use.

The area experiences summer use from hiking, camping, jogging, mountain biking, and seasonal residence/cabin use of 22 privately-owned dwellings. A U.S. Forest Service campground within the Basin, with a 93 day managed season, has capacity for 165 people at one time. Three trailheads are in the Basin.

Winter use is dominated by downhill skiers and the Alta Lift Company's lifts and groomed ski runs which traverse the Basin. Alta Lift Company also operates a midway restaurant/warming hut (Alpenglow) in the Basin during the ski season. The 22 private cabins/homes have seen increasing use during the winter months with access by snowcat or snowmobile. Crosscountry and backcountry skiing also take place within and around Albion Basin.

GOVERNMENT JURISDICTIONS

Several jurisdictions share authority and responsibilities within Little Cottonwood Canyon and Albion Basin including the U. S. Forest Service, the Town of Alta, Salt Lake City, Salt Lake County, Salt Lake City/County Health Department, the Utah State Division of Wildlife Resources, and others. These entities cooperate in watershed/water quality protection, planning, transportation and access, and other issues affecting current and future uses within the Canyon and Albion Basin.

The entire area is within the boundaries of the Wasatch-Cache National Forest and a majority of the lands in Albion Basin are owned by the Federal Government with management by the U.S. Forest Service. Federal lands were acquired at statehood, through donation, or through purchase.

Albion Basin is within the Town of Alta. Annexation took place in 1979 and 1981. Alta provides fire and police protection, a dumping facility for collected sewage, and other services to Albion Basin homeowners.

The Basin is within Salt Lake County which had primary jurisdiction over private lands within the area up until annexation by the Town of Alta.

Salt Lake City holds the majority of water rights within Little Cottonwood Canyon and Albion Basin. Through extraterritorial rights granted through the Utah State Constitution, State statute, and Federal statute, Salt Lake City has authority to manage the area for watershed/water quality protection and, in cooperation with the Forest Service, for the long term provision of a water supply for the Salt Lake Valley.

Salt Lake City/County Health Department enforces water quality standards including the imposition of a minimum of 400 gallons per day culinary water supply for eligibility for a residential building permit.

Hunting is prohibited within the Town of Alta and domestic pets (dogs and horses), are prohibited within the Salt Lake City culinary use watershed area which includes Albion Basin.

Albion Basin is also within the U.S. Forest Service permit boundary for the Alta Ski Lift Company's downhill ski area. Albion Basin comprises only a portion of the total Alta permit area. Alta Ski Lift Company facilities within Albion Basin include groomed runs and trails, three ski lifts, and a restaurant/ warming hut. One lift, Cecret Lift, is entirely within the Basin, and two others, Supreme and Sugarloaf, begin in the Basin and transport skiers to the surrounding higher terrain.

Skier access is afforded by two lifts coming up from base facilities to the northern edge of Albion Basin or by skiers coming over the top of Sugarloaf Mountain from lifts in Collins Gulch to the West (see tab --).

## HISTORY - LITTLE COTTONWOOD CANYON/ALBION BASIN

The first mineral discoveries were made in Little Cottonwood Canyon in 1864 at what is now the Town of Alta. By 1873, Alta had a population of 5,000. The patenting of mining claims, converting public land to private ownership, was the origin of almost all of the private lands in the upper Canyon. By the end of the century mining activity began to decline, the Canyon population largely withdrew, and Canyon uses eventually evolved into primarily recreational.

The Wasatch-Cache National Forest was established in 1904 and the Forest Service assumed management of Federally owned lands within the Canyon. Acts of Congress in 1914 and 1934 directed the Forest Service to cooperate with Salt Lake City in protection of the Wasatch Canyons watersheds and their water supply for the Salt Lake Valley. The 1934 Act reserved title to the surface for Federal lands within Little Cottonwood Canyon under the Federal Mining Laws, but did allow for perfection of any valid claims then in existence.

Alta Ski Lift Company began operation in 1939 with a ski lift up Collins Gulch. Alta Lift Company's Forest Service permits and origins included the deeding of the surface of several mining claims to the Federal Government and private/local government/Forest Service cooperation. Subsequently, several lodges were built on Forest Service and private lands within the old Alta townsite. In 1971, the Snowbird Resort began operation just below Alta in Little Cottonwood Canyon.

Forest Service lands comprise 81 percent of the Canyon lands, 13,853 acres, with 3,227 acres in private ownership. Private lands are located at the Canyon mouth, Wasatch Resort, Snowbird, Alta Town including Albion Basin, and various mining patents. Previous land exchanges involving the U.S. Forest Service, Salt Lake City, the Trust for Public Lands, and private landowners have placed more private lands into U.S. Forest Service ownership.

ALBION BASIN PRIVATE LANDS/LANDS PROPOSED FOR ACQUISITION

Private lands within Albion Basin were derived through the patenting of mining claims under the Federal Mining Laws. Many of these lands have already been acquired by the Forest Service through purchase, donation, or exchange. Of the remaining private lands, three areas have been sold as private lots, either through a platted subdivision or in transactions prior to any requirements for recordation of subdivisions by Salt Lake County.

Other mine patents adjacent to the subdivisions remain in private ownership, some of which may have potential suitability for subdivision or residential development if current zoning and building permit requirements could be met. Some of the lands are on steep slopes, however, and could not reasonably be considered for residential or development purposes.

The Town of Alta has proposed priorities among these various private lands for public acquisition (see tab \_\_\_\_). The Town's priorities are first, acquisition of vacant subdivision lots, second, acquisition of certain private lands outside of the subdivisions, and third, acquisition of subdivision lots with existing dwellings.

The three subdivisions are Cecret Lake, Albion Alps, and Albion Basin (tab \_\_\_). They surround the U.S. Forest Service campground with access to Cecret Lake and Albion Alps lots being through the campground. All three were divided into lots and sold while the private lands were under jurisdiction of Salt Lake County and prior to any County zoning within Little Cottonwood Canyon. The first zoning did not occur until 1972 and was not finally in place until 1974 when a one acre minimum lot size was required. The lots are therefore grandfathered and had passed into private ownership prior to their annexation by the Town of Alta in 1979 and 1981.

#### CECRET LAKE

The 18 privately-owned lots within the Cecret Lake so-called subdivision (9.344 acres) were sold to private individuals after World War II and prior to 1952. The area is patented mine land and the existing lots lie about 1500 feet northeast of Cecret Lake. The remainder of the patent was previously acquired by the Forest Service. Forest Service acquisitions of 3.017 acres within the subdivision occurred through a Trust for Public Lands transaction in 1985.

Of the 18 lots remaining in private ownership, 9 have existing dwellings, 5.288 acres. Nine lots, 4.056 acres, are vacant. All of the lots are under 1 acre. A Cecret Lake Association has developed water storage facilities and it is possible that City/County Health Department minimum requirements

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could be met for building permits on at least some of the 9 remaining vacant lots.

## ALBION BASIN SUBDIVISION

The plats were recorded with Salt Lake County for the Albion Basin Subdivision on January 24, 1963. The 20.044 acre area is divided into 32 individual lots ranging in size from 0.305 acres to 1.192 acres. The Forest Service owns 3 lots totalling 1.397 acres. Salt Lake County owns 1 lot. Of the remaining 28 lots, 4 have dwellings, 2.408 acres, and 24 are vacant, 16.025 acres.

One individual, Marvin Melville, owns 8 vacant lots, 4.878 acres. Albion Basin Development Company owns 4 vacant lots, 2.252 acres. The Subdivision is immediately adjacent to the U.S. Forest Service campground.

## ALBION ALPS SUBDIVISION

The Albion Alps Subdivision, 9.854 acres, consists of 31 lots recorded with Salt Lake County in two phases in 1962 and 1967. The Albion Alps lots are generally smaller than those in the other two subdivisions and are all less than one half acre. The Forest Service has acquired one 0.225 acre lot. The remainder are in private ownership. Eight of the lots, 2.35 acres, have had dwellings built on them.

Eleven lots running through the middle of the subdivision were acquired by the Alta Lift Company in the late 1960's in conjunction with approval and construction of their Supreme ski lift and associated ski terrain. The ski runs returning to the lift base logically passed through the 11 subdivision lots and the Forest Service campground. The lift company sold the lots to a third party in anticipation of a Forest Service exchange which did not materialize and subsequently repurchased the lots in 1980 at \$20,000 each. It is in Alta Lift Company's interest that the lots never be developed as their ski run would be obstructed.

The lift company is a willing seller so long as the lots convey to public ownership and the Company is guaranteed easement for continued downhill ski use associated with their Forest Service area permit.

# OTHER PRIVATE LANDS

Other private lands remaining in Albion Basin are in three blocks. The first is a hockey stick-shaped strip of land, approximately 100 feet by 900 feet, north of the Albion Basin Subdivision.

The second block consists of two parcels, 2.87 acres and 22.73 acres, owned by Melville Construction and abutting the Albion Basin Subdivision to the East. There is concern that these lands could be developed and public acquisition may be desirable. The Town of Alta has given them a priority for public acquisition following acquisition of vacant subdivision lots.

The third block lies directly south of the Albion Alps Subdivision and is comprised of six former mining claims with a total area of about 120 acres. This block abuts the Salt Lake County line, the dividing line between the Wasatch and Uinta National Forests, and runs up into the steep, rocky slopes of Devil's Castle, the southern perimeter of Albion Basin. It is unlikely these lands could be developed.

#### LAND VALUES

Market values for private lands within Albion Basin are inflated far above their appraised value and for the vacant lots, above their realistic development potential value. Eleven lots purchased in 1981 were for \$20,000 each. An appraisal early in the 1980's set a value of almost \$34,000 per acre within one subdivision. Salt Lake County assessed values for 60 of the vacant lots totals \$615,110, or an average of \$10,252 per lot. Materials under tab \_\_, prepared by the Town of Alta, provide assessed values for Basin properties.

This month, Salt Lake City Department of Public Utilities will commission appraisals for three categories of private lands within the Basin, a subdivided lot, lands that have potential for subdivision, and land which probably does not have subdivision potential. The Town of Alta has also requested Salt Lake County to do complete reappraisals during 1989 within the Town of the Alta, including Albion Basin.

#### CURRENT CIRCUMSTANCES

Fifty-five vacant lots remain in private ownership within the subdivisions. Eleven lots are owned by the Alta Ski Lift Company and will not be developed, but the Company is "anxious" to negotiate a fair price sale to have them publicly acquired, enjoy some return on their purchase price, and have them taken off the tax rolls.

The remaining 44 vacant lots are held by their owners for either speculative purposes or with hopes for eventual building. Twelve or more of these lots face the Forest Service public campground. It appears that these lots would be given highest acquisition priority by the Forest Service.

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The real potential of legal construction of dwellings on the 55 vacant lots is debatable. Salt Lake City/County Health Department and Town of Alta minimum requirements would have to be met in order to receive a building permit. Among other requirements are a minimum of 400 gallons per day per dwelling of culinary water and satisfactory handling of sewage.

Any water supplies for the subdivisions and other private lands within Albion Basin are largely through surplus water contracts with Salt Lake City and the Little Cottonwood Water District, holders of water rights in Little Cottonwood Canyon. Salt Lake City policy is for no new "surplus" water contract sales in the Canyons. Existing water supply agreements to the Subdivisions would not appear to provide sufficient water supply for building permits in most cases.

Sewage handling and water quality control are other prime considerations. Little Cottonwood Creek has been designated under the Clean Water Act for antidegradation. A sewer line constructed in conjunction with development of the Snowbird Resort serves the Town of Alta and all of the Canyon downstream transporting sewage to the Valley below for treatment. Utilization of the sewer line and water quality/watershed protection measures in the Canyon have resulted in high Little Cottonwood Creek water quality. 1985 coliform levels for the stream were measured at 7/100 ml., well below the State health standard minimum of 5,000/100 ml. With Little Cottonwood Creek being an important source of culinary water for the Salt Lake Valley, these considerations are vital. Albion Basin has no sewer line. Existing dwellings in the Basin use drain fields for grey sewage, in-ground holding tanks for black sewage, or storage tanks for all sewage. The tanks are pumped during the summer months and the sewage transported by truck to a cooperative sewage disposal facility in Alta.

Owners of residential properties in Albion Basin have requested sewer line service in the past, but have been denied service. Water supplies are not sufficient to operate a sewer line from each dwelling and establishment of a line may also encourage future development and construction in the area. Increased winter use of existing dwellings has intensified concerns about adequate sewage handling measures in the Basin. Local jurisdictions will firmly oppose any development proposals which might compromise water quality in Little Cottonwood Canyon.

For the nine Cecret Lake vacant lots, there is a possibility that building approvals could be provided by the Salt Lake City/County Health Department if a 400 gallon per day culinary water supply were demonstrated for each lot. An older block of lots, Cecret Lake has a more adequate water supply and has developed some storage. It is uncertain how many of the lots

would have the minimum water available for a building permit. City/County Health would also require adequate drain fields for "grey" sewage and provision for holding tanks, storage, pumping, and disposal for "black" sewage. With shallow soils, adequate drain fields may not be possible in Cecret Lake.

It is less likely under current circumstances that building permits could be issued for vacant lots in the Albion Basin and Albion Alps Subdivisions. Water supplies for these lots are purchased through agreements with the Little Cottonwood Water District for surplus Canyon water. All holders of Little Cottonwood Canyon water rights belong to the Water District. Salt Lake City currently has rights to 60 percent of the Canyons' water and Sandy City holds about 40 percent of the water rights. In letters dated February 1988, the Little Cottonwood Water District asserts that it never intended to provide over 50 gallons per day per dwelling under the surplus water sales contracts to the lots (see tab \_\_). To date, water use has not been metered and it is uncertain what quantity of water has actually been used at the existing dwellings.

Salt Lake City is exploring changes in its relationships through Little Cottonwood Water District for Albion Basin water sales in order to meter, monitor and charge for actual water use.

A 50 gallon per day maximum water supply would not qualify for a building permit. That does not, however, preclude discovery of a new spring or other water source, although that possibility is remote. Salt Lake City watershed management policies oppose the drilling of wells or the transfer of water rights upstream within the Wasatch Canyons. It has been suggested that a special service district could be formed in Albion Basin to improve water supplies and/or provide sewer service. The Town of Alta would have to approve formation of such a district within its boundaries.

There would appear to be in place significant barriers to approval of construction of new dwellings in Albion Basin. However, there remain uncertainties that a permit could be successfully denied in all cases or that circumstances may not change in the future affording opportunities for additional residential units.

Concerns have been amplified by increased winter use of existing dwellings, and in some instances, the short-term renting out of residences to winter destination skiers. A recent court decision has approved such use as a previous non-conforming use for one dwelling, but limited such use to 30 days per year and a maximum of 12 paying guests. A 50 gallon per day water supply hardly seems adequate for 12 people, let alone for maintaining the hot tubs at this particular residence. Furthermore, sewage holding tanks cannot be pumped during the winter months when

access is only by snowmobile and snowcats. There is potential under these circumstances for water quality/environmental degradation to occur.

## LOCAL SUPPORT FOR ACQUISITIONS

Within the past year, Salt Lake City through its Watershed Management Plan, Salt Lake County through its Preliminary Wasatch Canyons Master Plan, Salt Lake City/County Health Department through correspondence, and the Town of Alta through numerous contacts and the attached materials have all indicated their support for public acquisition of certain private lands in the Wasatch Canyons.

Salt Lake City's Watershed Management Plan established a watershed acquisition fund to acquire private lands for purposes of watershed and water quality protection (tab \_\_\_). The fund is derived from a surcharge on City water/sewer bills. Although over time significant funds may be raised for this purpose, they are for use throughout the seven Wasatch Canyons for acquisitions and are too limited to make any substantial inroads into the private land ownership in Albion Basin.

Salt Lake County's Preliminary Wasatch Canyons Master Plan includes a policy on private lands acquisitions for purposes of providing additional areas for public use, to protect particularly scenic or sensitive areas from development and to protect the watersheds (tab \_\_\_). The County Preliminary Plan encourages cooperation among local jurisdictions and the Forest Service in developing acquisition criteria, priorities, and options for land purchases. The County does not have funds available for this purpose at this time.

A March 1988 letter from the City/County Health Department supports Salt Lake City land acquisition policies and notes particular concern about circumstances in Albion Basin (tab \_\_).

In addition, the 1985 Wasatch-Cache National Forest
Management Plan lists criteria for land acquisitions(tab \_\_\_).
The Albion Basin lands in question fit these Forest Service
criteria. A letter dated March 8, 1989 from the Forest
Supervisor to Salt Lake City Mayor DePaulis elaborates on the
local Forest's acquisition policy and its concerns about
circumstances in Albion Basin (tab \_\_\_). Although the letter is
written in a manner to avoid the perception of a aggressive
Forest Service acquisition of private lands in Albion Basin, the
Forest Service has been extremely cooperative in seeking
solutions to Canyonwide management issues and to concerns arising
due to private land development in Albion Basin. The Forest
Service would welcome acquisition of these lands and would
cooperate in a transaction with the Conservation Fund.

#### CONCLUSION

If acquisition is not achieved, and if future circumstances allow additional development within Albion Basin, significant concerns would be realized. The kinds and intensity of uses in Albion Basin's fragile environment would change. Water quality concerns would be a paramount problem with snowmelt and stream flows passing through and adjacent to the lands in question. The character and visual quality of the area would be impacted and would further detract from both dispersed and developed recreation in the area. Any water supply available now is surplus water which has as a priority use culinary water supplies for the Salt Lake Valley. In dry periods, and as the Valley population and water needs grow, that "surplus" water availability could be jeopardized.

Acquisition of private properties within Albion Basin is in the public interest, is a high priority for the Town of Alta and for Salt Lake City. The properties have sold and have an apparent market value beyond which would reasonably appear to be their development potential or real value. These circumstances preclude Forest Service purchase and make them beyond local government's funding capacities for purchases.

Salt Lake City, the Town of Alta, and other entities will continue to pursue policies to protect watersheds, water quality, and the Albion Basin environs. These policies will coincidentally further strengthen barriers against further residential development within Albion Basin. These actions are intended both to halt development and to restrain speculative increases in property values.

Third party assistance is needed to accomplish public acquisition of private lands in Albion Basin. Our understanding of the Conservation Fund's purposes and acquisition process would be well suited to the circumstances described. Opportunities for private/third party/Forest Service exchanges involving Albion Basin private lands have been pursued in the past and have had few successes. Conservation Fund negotiation for purchase, acquisition, and donation of the acquired lands to the Forest Service is an extremely attractive option to us and hopefully an opportunity the Fund will also find attractive and keeping with its goals.

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